THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.21193 OF 2006

ORAL ORDER:

This writ petition is field aggrieved by the action of the respondents in directing the petitioner to furnish FDR/Bank Guarantee for the value of the vehicle as a condition to grant interim custody of the vehicle pending confiscation proceedings before the Deputy Commissioner of Prohibition and Excise, Mahaboobnagar.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition & Excise.

As can be seen from the material on record, the vehicle in question was seized on 1.8.2006 on the ground that it was involved in an alleged offence under the A.P. Excise Act, 1968 (for short "the Act"). It is true that if the said allegations are established, the vehicle is liable for confiscation under the provisions of the Act. However, the learned Government Pleader under instructions states that the matter is still at the stage of investigation. If that be so, undoubtedly, the enquiry as contemplated under the Act would take a considerable time. In the circumstances, and keeping in view the fact that already three months have elapsed from the date of seizure and particularly having regard to the plea of the petitioner that the vehicle in question was purchased by him under a hire-purchase agreement, which is being operated on hire, is the only source of his livelihood, I find force in the submission of the learned counsel for the petitioner that the condition imposed by the respondents to furnish Bank Guarantee to the entire value of the vehicle is onerous.

Accordingly, I deem it appropriate to direct release of the vehicle subject to the condition that the petitioner furnishes Bank Guarantee to half of the value of the vehicle as assessed by the Motor Vehicle Inspector.

The impugned order of the 1st respondent dated 26.8.2006 shall

stand modified accordingly and the respondents are directed to grant interim custody of the vehicle in question to the petitioner on furnishing Bank Guarantee to half of the value of the vehicle as assessed by the Motor Vehicle Inspector. The petitioner shall also furnish an undertaking that he will not alienate or create any third party interest in respect of the vehicle, till the conclusion of the proceedings before the 1st respondent.

The writ petition is accordingly, disposed of. No costs.

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(G. ROHINI, J.

26th October, 2006.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.21193 OF 2006

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26th October, 2006.

Between:

J. Srisailam. .. Petitioner.

And

Deputy Commissioner of Prohibition and Excise,

Mahaboobnagar Division and another. .. Respondents.